licensee before revocation, is nevertheless revocable at the option of the licensor; and this although the intention was to confer a continuing right, and money had been expended by the licensee upon the faith of the licensor. This we believe is the rule required by public policy. It prevents the burdening of lands with restrictions founded upon oral agreements easily misunderstood. It gives security and certainty to titles, which are most important to be preserved against defects and qualifications not founded upon solemn instruments. The jurisdiction of courts to enforce oral contracts for the sale of land is clearly defined and well understood, and is indisputable. But to change what commenced in a license into an irrevocable right, on the ground of equitable estoppel, is another and quite a different matter." It was better, the court said, that the law requiring interests in land to be evidenced by deed should be observed, than to leave it to the chancellor to construe an executed license as a grant depending upon what, in his view, might be considered equity in a given case.

Agency — Unauthorized Sale by a Drummer of His Samples. — *Savage* v. *Pelton et al.*, 27 Pac. Rep. 948 (Col.), was a case where a travelling salesman employed to sell goods from samples which he carried in trunks furnished for that purpose, sold his trunks and their contents. In deciding that such sale was beyond the agent's authority and therefore void, and that the power to sell was not to be implied from the character of the agency, nor from the ordinary methods used in its execution, the court say: "The law is clear that the limits of an agent's authority are to be found in the instructions of his principal. This general rule is necessarily subject to the modification that the agent is entitled to employ all the necessary and usual means of executing the principal's authority, and that this implied power is frequently modified by his right to use all the ordinary means justified by the usages of the trade in which he is engaged. Neither of these principles is broad enough to confer upon an agent, employed to solicit orders for goods upon the strength of samples furnished him, authority to sell those things which are essentially necessary to the performance of his duties."

Contributory Negligence — Question for Court. — *Emry* v. *Raleigh & G. R. Co.*, 14 S. E. Rep. 352 (N. C.), was a case involving contributory negligence, and was brought up on error of the lower court in failing to charge the jury as to what constituted such negli-

gence. In remanding the case the court said, in substance: It is not the province of the jury to ascertain and determine what is negligence or what is reasonable diligence. When, however, the facts are to be found by the jury from conflicting evidence upon issues of fact, the court should submit the evidence to them with appropriate instructions as to the varying aspects of the evidence. It should carefully instruct them that, if they found one state of facts, then there is negligence; if a second, then there is no negligence; if a third, then there is or is not, as the case may be. It is not sufficient or proper to instruct the jury to consider and determine whether "a prudent man" would or would not do the things in question, and to be governed by their best judgment in that respect. This would practically leave it to them to decide what did or did not constitute negligence or reasonable diligence in the case before them, whereas they should receive the law from the court, and finding the facts, apply them to the instructions they so received, and not otherwise. The jury cannot decide that there is or is not negligence in view of the evidence and facts before them, by deciding what in their judgment, "a prudent man" would think of the facts, and how he would probably act upon them.

Taxation of Leased Rolling Stock—Interstate Commerce.—Denver & Rio Grande Railway Co. v. *Church, County Treasurer*, 28 Pacific Rep. 468 (Colorado.) Plaintiff railway company had in its possession and was operating certain cars, owned by and leased from the Pullman Car Co., which was located and had its domicile in another State, and in operating the road these cars frequently passed by connecting lines into the adjoining States. The State Board of Equalization assessed these cars for taxation and the plaintiff brought this action to enjoin the defendant from collecting the taxes thereon. The plaintiff claimed that the State had no right to tax these cars since they were the property of a foreign corporation, and that because these cars frequently ran on connecting lines and passed into other States, they were employed in interstate commerce and, therefore, this taxation was a violation of that clause of the Federal Constitution which gives Congress power "to regulate commerce * * * among the several States." The court held, relying upon *Car Co.* v. *Commissioners*, 11 Sup. Court Rep. 876, that, since these cars were operated by the Denver & Rio Grande Railway Co., and in their possession and leased to them under contract with the Pullman Car Co., the State had the right to tax them; and that the